



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

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Secretary

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August 17, 2018

Mr. Kevin McLaughlin, President
Fairhaven Shipyard Companies, Inc.
32 Water Street
Fairhaven, MA 02719-2866

RE: **INITIAL AIR QUALITY OPERATING PERMIT APPLICATION TERMINATION**

Application Number: SE-16-018

Transmittal Number: X254047

ADMINISTRATIVE AMENDMENT TO PLAN APPROVAL

Administrative Amendment Number: SE-12-031

AT: Fairhaven Shipyard Companies, Inc. – South Shipyard
50 Fort Street
Fairhaven, MA 02719

Dear Mr. McLaughlin:

The Department of Environmental Protection (MassDEP) is in receipt of your e-mail dated July 31, 2018, requesting the withdrawal of an initial Air Quality Operating Permit application, and requesting the revision of an existing Air Quality Plan Approval, both pertaining to Fairhaven Shipyard Companies, Inc. – South Shipyard, 50 Fort Street, Fairhaven, Massachusetts (Facility).

OPERATING PERMIT APPLICATION TERMINATION

Your July 31, 2018 e-mail requested the withdrawal of your initial Air Quality Operating Permit application, application number SE-16-018, transmittal number 254047. The submission of this application relied upon a prior United States Environmental Protection Agency (USEPA) guidance document, known as the “May 1995 Seitz Memorandum” which set forth a policy, commonly

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

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known as “once in, always in” (the “OIAI policy”), which established your Facility as a major source.

On January 25, 2018, the U.S. Environmental Protection Agency (EPA) superseded the May 1995 Seitz memorandum, and issued a new guidance memorandum that addressed the question of when a major source subject to a Maximum Achievable Control Technology (MACT) standard under Clean Air Act (CAA) section 112 may be reclassified as an area source, and thereby avoid being subject thereafter to major source MACT and other requirements applicable to major sources under CAA section 112. The USEPA notified the public that it had issued the guidance memorandum titled “Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act”, through Federal Register Vol. 83, No. 27, Thursday February 8, 2018. The USEPA also withdrew the memorandum titled “Potential to Emit for MACT Standards – Guidance on Timing Issues.”

As of this date, the requirements of Title 40 Code of Federal Regulation Part 63 (40 CFR 63) Subpart II continue to apply to shipbuilding and ship repair operations at any facility that is a major source, per 40 CFR 63 Section 63.781(a). Based on Air Quality Plan Approval SE-12-031, amended August 17, 2018 (see enclosed), MassDEP has determined that the Facility continues to take a federally enforceable limit on its Potential To Emit (PTE) below Operating Permit major source thresholds for the emissions of particulate matter, hazardous air pollutants and volatile organic compounds, and therefore, the Facility has achieved area source status.

As such, the Facility may not be subject thereafter to those requirements applicable to the source, as a major source under CAA section 112 (including in particular 40 CFR 63, Subpart II) – so long as the Facility’s PTE remains below the applicable emission threshold. You are advised to consult with USEPA regarding any notification, recordkeeping, reporting, monitoring, and testing requirements for which you may be subject. Contact information: USEPA Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109-3912, telephone: (617) 918-1111.

Accordingly, MassDEP approves your request to withdraw the Application, and herein notifies the Facility that the review of the initial Air Quality Operating Permit application (application number SE-16-018, transmittal number 254047) is hereby terminated.

ADMINISTRATIVE AMENDMENT TO AIR QUALITY PLAN APPROVAL

Your e-mail dated July 31, 2018 also requested MassDEP revise existing Air Quality Plan Approval SE-12-031, dated August 25, 2015, as a result of USEPA’s new guidance memorandum.

MassDEP has determined that this existing Plan Approval contains references to no-longer applicable requirements from 40 CFR 63 Subpart II – National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating). In the interest of the effective administration of the Commonwealth’s air pollution control program, and pursuant to 310 CMR

7.02(13)(a)5., Administrative Amendment to Plan Approval, MassDEP is issuing this amended Air Quality Plan Approval SE-12-031, with an amendment date of August 17, 2018.

Best Available Control Technology at the Facility continues to include the use of marine coatings consistent with the VOC-compliant standard as contained in Table 2. In addition, the Reporting Requirements contained in Table 5, Proviso 3 are amended to be consistent with 310 CMR 7.12, Source Registration.

Please find the enclosed amended Air Quality Plan Approval SE-12-031 amended August 17, 2018.

Be advised that the guidance memorandum that was issued by USEPA has been appealed, and as of this date, a final determination on its applicability and its finality has not been made. Your July 31, 2018 e-mail to MassDEP acknowledged and accepted USEPA's position on the reclassification of major sources as area sources under Section 112 of the Clean Air Act. USEPA's position may be subject to change.

Should you have any questions regarding the termination of your initial Air Quality Operating Permit Application, or the issuing of Air Quality Plan Approval SE-12-031 amended August 17, 2018, please contact Dan Kamieniecki at the Southeast Regional Office at (508) 946-2717.

Sincerely,

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Thomas Cushing, Chief
Air Permit Section
Bureau of Air and Waste

Enclosure: MassDEP Air Quality Plan Approval SE-12-031, amended August 17, 2018

ecc: D. Dahl, EPA Region 1
S. Lancey, EPA Region 1
C. Sansevero, EPA Region 1
M. Wolman, DEP/ BAW-Boston
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